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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/680,523

10/07/2003

Ahmed F. Ghouri

ANVTA.001A

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05/13/2010

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EXAMINER

LE, LINH GIANG

ART UNIT

PAPER NUMBER

3686

NOTIFICATION DATE

DELIVERY MODE

05/13/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/680,523	<b>Applicant(s)</b> GHOURI, AHMED F.	
	<b>Examiner</b> MICHELLE LE	<b>Art Unit</b> 3686	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 01 January 1948.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-48 is/are pending in the application.

    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-48 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.

4) ☐ Interview Summary (PTO-413)  
    Paper No(s)/Mail Date \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/5/10 has been entered. Claims 1-48 remain pending. Claims 1-3, 6, 12, 19, 22, 23, 26, 27, 30, 38, 39 and 42 have been amended.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-8, 10-11, 12-21; 22-25; 26-29; 30-38; 39-41; and 42-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Oscar (2001/0037216).

4. As per claim 1, Oscar teaches a method for the cost-effective use of medications, comprising:  
adjusting, using one or more processors, the patient copayment for at least one

medication treatment therapy according to the cost-effectiveness of the medication treatment therapy (Oscar; para. 53, 64); ("out of pocket costs" reads on "copayment") and providing a physician with the adjusted patient copayment of the medication treatment therapy (Oscar; para. 53).

5. As per claim 2, Oscar teaches wherein adjusting the patient copayment is based at least in part on patient medication treatment therapy history (Oscar; para. 55).

6. As per claim 3, Oscar teaches wherein adjusting the patient copayment is based on at least one patient attribute (Oscar; para. 49).

7. As per claim 4, Oscar teaches wherein the patient attribute includes at least one of: age, sex, weight, past and current medications, co-existing diseases, surgical history, allergies, laboratory findings, and social history (Oscar; para. 49).

8. As per claim 6, Oscar teaches a system for the cost-effective use of medications, comprising:  
a user interface, configured to receive input from a user and display information (Oscar; para. 66);  
a cost-effectiveness analysis means, configured to determine a cost- effectiveness of a plurality of medication treatment therapies Oscar; para. 66); and

a patient copayment adjustment means, configured to adjust a patient copayment for each of the medication treatment therapies according to cost-effectiveness data from the cost-effectiveness analysis means, wherein the adjusted patient copayment for each medication treatment therapy is displayed on the user interface (Oscar; paras. 53, 64, 66).

9. As per claim 7, Oscar teaches wherein the cost-effectiveness of a medication treatment therapy is based at least in part on at least one patient attribute (Oscar; para. 49).

10. As per claim 8, Oscar teaches wherein the patient attribute includes at least one of:  
age, sex, weight, past medications, current medications, co-existing diseases, surgical history, allergies, laboratory findings, and social history (Oscar; para. 49).

11. As per claim 10, Oscar teaches wherein the plurality of medication treatment therapies are determined based on information provided at the user interface (Oscar; para. 49).

12. As per claim 11, Oscar teaches wherein the information provided at the user interface includes at least one of patient symptoms, diagnosis, and type of medication

treatment therapy, whether by drug class, indication, or chemical structure (Oscar; Fig. 8).

13. Claims 12-21; 22-25; 26-29; 30-38; 39-41; and 42-48 repeat substantially the same limitations as claims 1-4, 6-8, and 10-11. The reasons for rejection from above are incorporated herein.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oscar (2001/0037216) in view of Surwit (6,980,598).

16. As per claim 5, Oscar in view of Surwit teaches wherein the cost-effectiveness of the medication treatment therapy is based on the overall cost of treatment, including treatment of side-effects related to medication therapy (Surwit; Col. 3, lines 40-50; Col. 4, lines 47-67). It would have been obvious to one of ordinary skill in the art to add the Surwit features to Oscar with the motivation of to deliver maximum therapeutic benefit in the most cost-effective way. (Surwit; Col. 3, lines 40-50).

17. As per claim 9, Oscar in view of Surwit teaches wherein the cost-effectiveness of a medication treatment therapy is based at least in part on the risk of complications for the medication treatment therapy (Surwit; Col. 3, lines 40-50; Col. 4, lines 47-67). It would have been obvious to one of ordinary skill in the art to add the Surwit features to Oscar with the motivation of to deliver maximum therapeutic benefit in the most cost-effective way. (Surwit; Col. 3, lines 40-50).

### ***Response to Arguments***

18. Applicant's arguments filed 1/5/10 have been fully considered but they are not persuasive in view of the newly applied reference in light of Applicant's amendments to the claims.

### ***Conclusion***

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHELLE LE whose telephone number is (571) 272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gerald O'Connor can be reached on (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/Michelle Linh-Giang Le/  
Examiner, Art Unit 3686  
5/5/10